

# Retirement News for Employers

## Information for Sponsors of Retirement Plans

Internal Revenue Service

Tax Exempt and Government Entities

Volume 4, Winter 2008

### A Look Inside

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## How Much Can You Deduct in Your Retirement Plan?

It’s tax time and the last chance to contribute to your retirement plan for 2007. Whether you contribute to a retirement plan for yourself or for your employees, you can deduct contributions (except Roth contributions, which are after-tax contributions), subject to limits.

Here are the 2007 limits, listed by the type of plan that you sponsor:

- **SIMPLE IRA Plan:** Maximum employee salary reduction contribution for 2007 is \$10,500. If the employee is age 50 or over, an additional catch-up contribution of \$2,500 may be deferred. The required employer contribution is either a 3% dollar-for-dollar matching contribution or 2% of compensation given to all eligible employees.
- **SEP Plan:** Maximum contribution is the smaller of 25% of an employee’s compensation (up to \$225,000), or \$45,000. Maximum deduction is 25% of all participants’ compensation that does not exceed \$225,000.
- **Profit-Sharing and Money Purchase Pension Plans:** Maximum contribution is the smaller of 25% of an employee’s compensation that does not exceed \$225,000, or \$45,000. Maximum deduction is 25% of all participants’ compensation that does not exceed \$225,000.
- **401(k) Plan:** Because a 401(k) plan is part of a profit-sharing plan, the same 25% deduction limit applies to regular profit-sharing contributions. Contributions can be both employer and employee. The maximum employee salary reduction contribution is \$15,500 for 2007. If the employee is age 50 or over, an additional catch-up contribution of \$5,000 may be deferred. You can deduct the employees’ elective deferrals in addition to the 25% limit (for employer contributions) as long as an individual’s total contributions do not exceed \$45,000 (\$50,000 for those aged 50 and over).
- **Defined Benefit Plan:** Maximum contribution is the amount needed to provide an annual benefit no larger than the smaller of \$180,000 or 100% of the participant’s average compensation for his or her highest 3 consecutive calendar years. The maximum deduction is limited to the amount necessary to fund the plan for the year and is determined by an enrolled actuary.

Self-employed individuals and partners must make an adjustment to their deduction for their own contributions on Form 1040, line 28. See “Table and Worksheets for the Self-Employed” in [Publication 560](#) for information on how to make this adjustment to your own contribution deduction.



## New on the Web

Here are the latest postings to the [Retirement Plans Community](#) web page:

- In order to better serve our customers and make it easier for you to find your way around the “Retirement Plans Community” web page, we have added two new links on our main page. The [Plans and Programs](#) link will take you to the different types of retirement plans (i.e., SEP, 401(k), 403(b), etc.) or the IRS Employee Plans Programs (i.e., Examinations, Determination, EPCRS, etc.). The [Retirement Plans Community Site Map](#) contains an alphabetical listing of main topics, linking you to specific topics on the “Retirement Plans Community” web page.
- Nine EP video clips on retirement plan topics ranging from navigating information on retirement plans to starting a SEP or SIMPLE IRA plan are now available online (via links) on the [Retirement Plans Community](#) web page. Check out the article on page 7 for a description of the videos and where to find them.
- We have reformatted the “EP FAQs” to match “Help with Tax Questions” on [www.irs.gov](http://www.irs.gov). The link to the “EP FAQs” is located on the left pane of the “Retirement Plans Community” web page. •

The Saver’s Credit is a special tax credit, based on income, which allows individuals to claim up to a \$1,000 credit (\$2,000 if filing jointly) on Form 1040, line 53, (Form 1040A, Line 33). It is available for contributions to a traditional or Roth IRA, 401(k), 403(b), governmental 457, SARSEP, or SIMPLE plan.

For additional information on the Saver’s Credit, see the “Timing is Everything” flyer in the [Fall Edition of the RNE](#). For more information on contribution and deductions limits for various retirement plans, see [Types of Plans](#) on the left pane of the “Retirement Plans Community” web page. •

## We’re Glad You Asked!

Each issue of the *RNE* looks at a common question we receive and provides an answer and additional resources in response to the question. In this edition you are getting a two’fer.

**Our Company has a SIMPLE IRA plan for our employees. During 2007, an eligible employee ended employment. The employee had more than \$5,000 in wages. In January 2008, the Company made its 2007 contribution to its employees’ IRAs. Does the Company have to make a contribution (either as a match of employee elective contributions up to 3% or as a 2% non-elective contribution, whichever applies) for the former employee in 2007?**

Yes. A SIMPLE IRA plan may not require a participant to be employed on a specific date to receive an employer contribution. If a participant terminates service during the plan year, they would still be entitled to an employer contribution. It does not matter if they were fired or quit.

Under §408(p) of the Internal Revenue Code, a SIMPLE IRA plan must base compensation and contributions on the entire calendar year. This rule applies regardless of when during the year the plan is put into effect or when the employee ends service.

**Our company’s SIMPLE IRA plan matches employee elective contributions dollar-for-dollar up to 3% of compensation. The company owner, age 49, took a \$250,000 bonus in November 2007, bringing his total compensation for the year to \$360,000. The match was made on the owner’s deferral of \$10,500, limited to 3% of his \$360,000 compensation. Is that OK, or is there a limit on the amount of compensation used for the 3% limit?**

Yes. In a SIMPLE IRA plan, the 3% limit on the match is based on an unlimited amount of an employee’s compensation. The match must equal the lesser of: the employee’s deferral (limited to \$10,500, in 2007, for an employee under age 50) or 3% of the employee’s compensation. In this case, the matching contribution will be the lesser of the owner’s \$10,500 deferral or 3% of compensation (3% of \$360,000 is \$10,800). Since the lesser amount is \$10,500, this is the amount of the match in this case. This is different from the 2% nonelective contribution which can only be made on the Code’s [maximum limits](#) for compensation (\$225,000 in 2007).

More information on [SIMPLE IRA plans](#) is available. •



## Desk Side Chat With Monika Templeman

### Keeping Your Plan in Compliance

In each issue, Monika Templeman, Director of EP Examinations, responds to questions and offers insights on retirement plan topics uncovered during audits. You may provide feedback or suggest future topics for discussion by e-mailing her at: [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov).

**Monika, in your last *Desk Side Chat*, you discussed the errors found in IRA-based plans. Most of these errors are not found until one of your agents does an examination of the plan, right?**

Correct. This is unfortunate, because most of these mistakes are the kind that could be identified and corrected quickly, if found by the plan sponsor.

**Employers are then ultimately responsible for operating their plans correctly?**

Yes. I really want to stress how important it is for plan sponsors to understand their responsibilities. A retirement plan is an excellent tool for employers. Plans provide numerous business and employee benefits. However, to keep these benefits alive and well, employers need to keep their plans up-to-date with current law in both form and operation. Think of a swan on the water looking graceful and balanced. While it appears that the swan glides effortlessly, underneath the water, the swan's legs are constantly in motion to keep the swan afloat. A retirement plan also requires ongoing effort to ensure "smooth sailing." The plan can provide excellent benefits for the employer and the employees. However, the employer has to work behind the scenes to make sure the plan stays compliant.

**This is an important responsibility. Does the IRS have any brochures or web material to assist plan sponsors?**

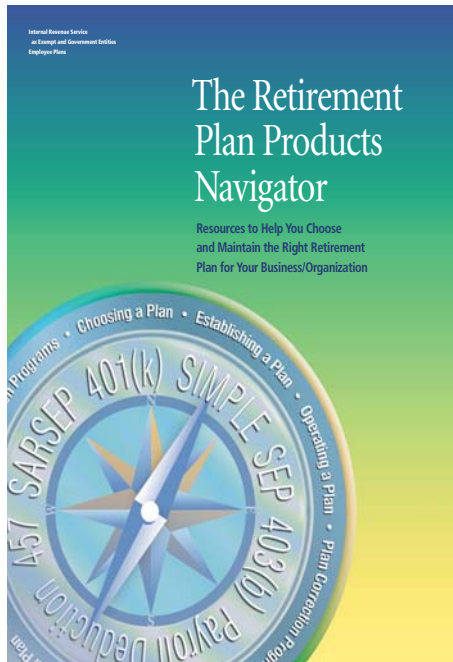
We have plenty of excellent, user-friendly materials to assist employers. First, I would highly recommend our online [Navigator](#). In addition to providing invaluable help in choosing an appropriate retirement plan, the *Navigator* provides terrific tools to help plan sponsors operate their plans and correct mistakes. For example, there are "check-up" brochures and plan checklists that will assist employers in performing regular maintenance on their plans. The *Navigator* covers many plan types, so I would suggest visiting our web site to find information specific to your plan.

**Where can employers find this *Navigator*?**

We have created a button exclusively for [Plan Sponsors/Employers](#) on our "Retirement Plans Community" web page ([www.irs.gov/ep](http://www.irs.gov/ep)). This button will take plan sponsors to all of the materials for operating and correcting their plan. Along with the *Navigator*, this web page also provides tips on preparing for an audit, error trends/tips by plan type, access to publications and forms, and other useful material.

**What about information for employers if, while maintaining their plan, they find an error they need to correct?**

There is a link on our web page that takes users to our [Correcting Plan Errors](#) page. On this page, employers can find information on the three types of correction programs available to them and when each would apply. The information on this page includes a list of the top ten errors submitted by plan sponsors as part of the Voluntary Compliance Program plus other trends/tips.



401(k) PLAN CHECKLIST	
<p>This Checklist is not a complete description of all plan requirements, and should not be used as a substitute for a complete plan review.</p> <p>For Business Owner's Use (DO NOT SEND THIS WORKSHEET TO THE IRS)</p> <p>Every year it is important that you review the requirements for operating your 401(k) retirement plan. This checklist is a "quick tool" to help you keep your plan in compliance with many of the important rules. Underlined text below shows a link to expanded explanations and resources available at <a href="http://www.irs.gov/ep">www.irs.gov/ep</a>.</p>	
<p>1. Has your plan document been updated within the past four years to reflect recent law changes?</p> <p>If your plan has not been updated to reflect EOTIRA, the plan needs to be revised.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>2. Have you notified the people who receive your plan of any plan changes?</p> <p>Notify plan participants right away with any changes in the form or operation of your plan, including acquisition or ownership changes affecting the employee.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>3. Is your plan's operation based on the definitions and requirements (terms) written in your plan document?</p> <p>Failure to follow the terms of the plan is a common problem recommended on audit.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>4. Have all eligible employees identified and given the opportunity to make an elective deferral election?</p> <p>By requiring your third-party administrator (TPA) or advisor with information regarding all employees who receive a Form W-2, you may reduce the risk of omitting eligible employees.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>5. Is the plan's definition of compensation used for all deferrals and allocations?</p> <p>Because your plan may use different definitions of compensation for different purposes, it's important that you apply the proper definition in a consistent manner when dealing with deferrals and allocations.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>6. Have you timely deposited employee deferrals each pay period?</p> <p>You are required to deposit deferrals as soon as they can be segregated from the employer's assets. Most employers deposit salary deferrals when making payroll tax deposits.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>7. Have you identified all your highly compensated employees and key employees, including owners and their family members, so that your TPA can perform your nondiscrimination tests?</p> <p>Failure to provide this information prevents your TPA from properly performing your nondiscrimination tests.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>8. Have the 401(k) nondiscrimination tests (ADP, ACP, and Top-Heavy) been performed counting all eligible employees?</p> <p>You may not need to—find out how a safe harbor 401(k) plan may allow you to completely avoid these tests.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>9. Have you filed a Form 5500 series return, and have you distributed a Summary Annual Report (SAR) to all plan participants this year?</p> <p>Responsibility for filing the Form 5500 and distributing the SAR lies with you, the plan sponsor.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>10. Are elective deferrals limited to the amounts under IRC 402(g) for the calendar year?</p> <p>Elective deferrals are limited to \$15,000 for 2006, including any designated Roth contributions made by participants, and inclusive of any catch-up contributions.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>If you answered "No" to any of the above questions, you may have a mistake in the operation of your 401(k) plan. This list is only a guide to a more complete plan, as answering "no" to each question may not mean your plan is 100% compliant. Many mistakes can be corrected easily, without penalty and without notifying the IRS.</p> <p>• contact your benefits professional • visit the IRS at <a href="http://www.irs.gov">www.irs.gov</a> • call the IRS at (877) 829-5500</p>	

## Recent Guidance

- [Proposed Regulations REG-133300-07](#), which were published with reliance under §§401(k), 401(m), 402(c), 411(a), 414(w), and 4979(f), pertain to certain automatic contribution arrangements.
- [Rev. Rul. 2007-67](#) addresses the mortality tables required by §417(e)(3) of the Code for single sum distributions as amended by §302 of PPA.
- [Rev. Proc. 2007-71](#) contains model amendments that may be used by public schools in creating or amending their §403(b) plans and also contains certain transitional relief.
- [Notice 2008-7](#) extends transitional guidance in Notice 2006-107, and the transitional relief in paragraph 4 of Part III.D of Notice 2006-107 provided to certain defined contribution plans holding publicly traded employer securities until the regulations related to §401(a)(35) become effective.
- [Notice 2007-99](#) alters Q&A-23 of Notice 2007-7 by deleting the word “insurance” from the term “accident or health insurance plan,” relating to the §402(l)(4)(D) definition of qualified health insurance premiums and the §402(l)(5)(A) definition of direct payment requirement.
- [Notice 2007-94](#) contains the 2007 Cumulative List of Plan Qualification changes. •

An employer that maintains a 401(k) plan should visit the [401\(k\) Fix-it Guide](#) which describes common 401(k) mistakes with tips on how to find, fix, and avoid them. The guide contains a wealth of practical information. Another excellent source for information is [EP Compliance Trends & Tips](#) which provides information on additional common [401\(k\)](#) mistakes, as well as common mistakes found in [403\(b\)/457 plans](#), [Defined Benefit plans](#), [Multiemployer plans](#), [SIMPLE IRA plans](#) and [SARSEPs](#).

Employers may also [send in a question](#) about correcting plan errors if they happen upon a situation that is not answered in the material on our web page.

### Do you have final words of wisdom for employers?

Periodically check our web pages for updates and new materials. This information and our web-based tools will assist employers in keeping that plan looking like a swan...I should say operating in compliance with the Code. •

### Fixing Common Plan Mistakes:

## Using a Plan Amendment for Correction in the Self-Correction Program

Each issue of the *RNE* looks at a common error that occurs in retirement plans and provides information on fixing the problem and lessening the odds of it happening again.

### The Problem:

Failing to follow the plan terms in its operation: When can a plan amendment be used to correct a mistake in the operation of the plan under the Self-Correction Program?

### The Fix:

[EPCRS](#) is a system of correction programs that can be used to correct plan mistakes that, if left uncorrected, could result in a retirement plan losing its tax-favored benefits. EPCRS includes the Self-Correction Program (SCP), where correction can be made without paying a fee or contacting the IRS. SCP is only available for correcting operational failures (i.e., mistakes that are made when terms of the plan are not followed in its operation). An overview of SCP appeared in the [Winter 2007 edition](#) of the *RNE*.

In general, the failure to follow the plan's terms may be corrected by using one of the following approaches. First, the plan can fix what was done in the plan's operation by correcting the mistake to match the plan's terms. Or, the employer may retroactively amend the plan so that its provisions match the way the plan was operated. In general, SCP is only available if correction is made using the first approach. However, in very limited circumstances an operational failure may be corrected by making a plan amendment under SCP.

SCP may be used to correct an operational failure by amending the plan to match the terms of the plan to the plan's prior operations only for the three operational failures listed in [Revenue Procedure 2006-27](#), Appendix B, section 2.07. The failures that can be corrected by plan amendment in accordance with the correction methods set forth in Appendix B are described as follows:

*Maximum Compensation (§401(a)(17)) Failures.* A defined contribution plan that allocates contributions or forfeitures based on a participant's compensation that exceeds the [§401\(a\)\(17\) limit](#) may be corrected by amending the plan. The affected participant's allocation rate (after taking into account only compensation

up to the §401(a)(17) limit) must be recalculated and extra amounts contributed to the other employees. The following example shows how this is done:

Company A maintains a money purchase pension plan. Under the plan, John, an eligible employee, is entitled to an employer contribution of 8% of his compensation up to the §401(a)(17) limit (\$220,000 for 2006). During the 2006 plan year, John earned \$250,000 and was credited with a contribution in the amount of \$20,000 (8% of \$250,000). Under the terms of the plan, John's contribution should have been \$17,600 (8% of \$220,000). John received \$2,400 too much.

Company A may correct the failure by giving extra amounts to eligible employees (other than John) and amending the plan to reflect the higher contribution percentage that was allocated to John. The plan's corrected contribution percentage (and the additional amount that must be contributed to all other eligible employees) is determined by dividing John's contribution (\$20,000) by the §401(a)(17) limit (\$220,000). Therefore, the plan must be amended back to the first day of plan year 2006 to increase the contribution percentage to 9.09% (\$20,000/\$220,000). In addition, each eligible employee (other than John) receives an extra contribution of 1.09% (9.09% - 8%) multiplied by his/her 2006 compensation. The extra contribution must be adjusted for earnings.

*Hardship Distribution and Plan Loan Failures.* The operational failure of making hardship distributions or plan loans to employees under a plan that does not allow them may be corrected by retroactively amending the plan to provide for the hardship distributions or plan loans that were already given. The retroactive plan amendment is permissible provided that the plan loans or hardship distributions were mostly made to individuals who were not highly compensated employees, loans were made according to the limits in §72(p), and, in the case of a 401(k) plan, hardship distributions complied with the applicable 401(k) rules relating to hardship distributions.

*Early Inclusion of Otherwise Eligible Employee Failures.* The operational failure of including an otherwise eligible employee in the plan too early may be corrected by retroactively amending the plan. This would apply to an employee who either (i) has not completed the plan's minimum age or service requirements, or (ii) has completed the plan's minimum age or service requirements but became a participant in the plan earlier than the plan entry date. The amendment, permitting the ineligible employee's inclusion, serves to reflect the plan's actual operations. In order to be entitled to make this retroactive amendment, employees affected by the amendment should be mainly nonhighly compensated employees.

A plan sponsor who amends a plan to correct a failure using SCP must submit a determination letter application on the corrective amendments, identifying the amendments separately in the application. The determination letter application must be submitted before the end of the plan's applicable remedial amendment period described in [Revenue Procedure 2007-44](#).

### **Making Sure It Doesn't Happen Again**

The failure to operate the plan in accordance with its terms can be prevented by ensuring that all of the parties involved with plan administration are familiar with the plan's terms. Periodic plan reviews should be performed.

Keep in mind that, despite all of your good efforts, mistakes can happen. In that case, the Service can help you correct the problem and retain the benefits of your qualified plan. •

### **Contributors to this Issue:**

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## The Filing Cabinet

### Revised Forms and Publications Now Available

The following forms have been revised:

- **Form 4461-A.** A “new” version of the *Application for Approval of Master or Prototype or Volume Submitter Defined Benefit Plan* (revised December 2007), used when submitting an application for either a specimen defined benefit master or prototype (M&P) plan or a specimen defined benefit volume submitter (VS) plan as described in Rev. Proc. 2007-44, is available.
- **Form 5329.** *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts* for 2007 reflects a change in IRS policy for taxpayers who miss taking their required minimum distribution from an IRA because of a reasonable error. Taxpayers who feel they meet the reasonable cause criteria (set out in IRC §4974(d)) are now allowed to not pay the 50% excise tax when they file their Form 1040. The **Instructions for Form 5329**, under *Waiver of Tax* on page six, instruct taxpayers to attach a statement of explanation, complete Part VIII of the form, make the appropriate “RC” annotation, and enter the amount to be waived on line 52.
- **Form 5330.** The *Return of Excise Taxes Related to Employee Benefit Plans* (revised January 2008), has been redesigned, grouping various excise taxes by due date and adding new taxes brought about by the Pension Protection Act.
- **Form 5558.** The updated *Application for Extension of Time To File Certain Employee Plan Returns* (revised January 2008), is now available to request an extension to file Form 5500 or 5330. Due to the fact that notices regarding the approval/denial of extension requests for Form 5330 filers have been automated, all sections below the signature and date lines have been eliminated.

The following publications have also been updated:

- *Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations* (**Publication 571**).
- *Pension and Annuity Income* (**Publication 575**).
- *Individual Retirement Arrangements (IRAs)* (**Publication 590**).
- *2008 IRS Tax Calendar for Small Businesses and Self-Employed* (**Publication 1518**).

These forms and publications are available on the **Retirement Plans Community** web page by clicking on “EP Forms/Pubs/Products” in the left pane or by calling (800) TAX-FORM (829-3676).<sup>•</sup>



Department of the Treasury  
Internal Revenue Service

**Publication 590**  
Cat. No. 151903

## Individual Retirement Arrangements (IRAs)

For use in preparing  
2007 Returns



Get forms and other information  
faster and easier by:  
Internet • [www.irs.gov](http://www.irs.gov)

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## IRS Employee Plans Videos - Now Available Online

Nine EP video clips on a range of retirement plan topics are now available online via links on the [Retirement Plans Community](http://www.irs.gov/ep) web page ([www.irs.gov/ep](http://www.irs.gov/ep)). These videos can be used in combination with the related web page content to provide both employers and participants useful information for meeting their retirement plan needs.

The following is a guide to these videos and how to find them:

Video Title	Description	Video Link on <a href="http://www.irs.gov/ep">www.irs.gov/ep</a> available at:
"The Navigator" - Navigating Employer Information on Retirement Plans	Small business owner uses "The Navigator" to help choose and operate a retirement plan. (2:52 min.)	<a href="#">Plan Sponsor/Employer</a> web page, select <a href="#">The Navigator</a>
Maintaining Your Plan	Tips on what employers/sponsors need to do to keep their retirement plan healthy. (6:45 min.)	<a href="#">Correcting Plan Errors</a> web page
Self-Correcting Plan Mistakes	A discussion on using the Self-Correction Program for a common plan mistake. (1:59 min.)	<a href="#">Correcting Plan Errors</a> web page
Fixing Plan Mistakes Found During an IRS Audit	IRS EP Examinations Director discusses what happens when EP agents find mistakes while examining retirement plans. (4:45 min.)	<a href="#">Correcting Plan Errors</a> web page
Increasing Your Retirement Savings	A short discussion on Individual Retirement Arrangements (IRAs) as a tool to use in planning for retirement years. (1:17 min.)	<a href="#">Plan Participant/Employee</a> web page, select "Resources for Retirement Plan Participant/Employee," then <a href="#">IRA Online Resource Guide</a>
Managing Your IRA	A discussion on basic principals of investing. (3:00 min.)	<a href="#">Plan Participant/Employee</a> web page, select "Resources for Retirement Plan Participant/Employee," then "IRA Online Resource Guide," then <a href="#">Information about Traditional IRAs</a> or <a href="#">Information about Roth IRAs</a>
Starting a SEP or SIMPLE IRA Plan	A discussion on two types of retirement plans (SEP and SIMPLE IRA) that are tailored for many small businesses. (2:00 min.)	<a href="#">Plan Sponsor/Employer</a> web page, then select "Types of Retirement Plans," then <a href="#">SEPs</a> or <a href="#">SIMPLE IRAs</a>
Stopping Abuses in Retirement Plans	IRS EP Examinations Director discusses stopping abuses in retirement plans. (2:33 min.)	<a href="#">Examinations/Enforcement</a> web page, then select <a href="#">EP Abusive Tax Transactions</a>
IRS Enforcement Priorities	IRS EP Examinations Director discusses 2008 Employee Plans Examination priorities. (3:24 min.)	<a href="#">Examinations/Enforcement</a> web page, then select <a href="#">"Critical Priorities" - EP Examinations Priorities/Goals</a>

The IRS Employee Plans videos are hosted on [stayexempt.org](http://stayexempt.org), the same web site that hosts IRS Exempt Organizations' online workshop – *Stay Exempt – Tax Basics for 501(c)(3)s*.



Form  
5500

## DOL News

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance and tools to assist plan sponsors in complying with ERISA, including those featured below. You can subscribe to [DOL/EBSA's web site homepage](#) or [PPA page](#) for updates.

### Proposed Regulation to Increase Disclosure of Fees and Conflicts of Interest

A [proposed rule](#) was published that will enhance disclosure to fiduciaries by requiring that contracts between certain service providers and plans provide for specific and detailed information. The proposal requires that all compensation, direct and indirect, to be received by the service provider in connection with services furnished to the plan be disclosed in writing. The proposal also requires the disclosure of possible conflicts of interest of the service provider that may affect the performance of plan services.

A [proposed class exemption](#) was published to provide relief to fiduciaries who enter into deficient contracts with service providers that, unbeknownst to the fiduciary, failed to comply with their disclosure obligations.

### Proposed Regulation on Civil Penalties

A [proposed regulation](#) was published for assessing civil penalties against plan administrators who fail to disclose certain documents to participants, beneficiaries and others as required by PPA.

The PPA established new disclosure provisions relating to: funding limits on benefit accruals and certain forms of benefit distributions; plan actuarial and financial reports; withdrawal liability of contributing employers; and participants' rights and obligations under automatic contribution arrangements. The PPA gives DOL/EBSA the authority to assess civil monetary penalties of up to \$1,000 per day against plan administrators for violations of the new requirements.

Comments should be submitted to DOL/EBSA by February 19, 2008.

### Proposed Expansion of Class Exemption on Settlement of Litigation

A [proposed amendment](#) to Prohibited Transaction Exemption 2003-39 was published to expand the categories of assets that can be accepted under the exemption to settle litigation with related parties, if the transaction is otherwise beneficial to the plan.

### 2009 Form 5500 Annual Return/Report

A [final rule](#) and a [notice](#) of adoption of revisions were published for revisions to the Form 5500 Annual Return/Report for plan year 2009, including a deferral for one year to the wholly electronic filing system.

The forms also include changes required by the PPA for defined benefit pension plans and multiemployer plans. Those changes are required to be implemented and will be included for the 2008 plan year Form 5500.

**Free Compliance Assistance Events:** For dates and locations of free compliance assistance events sponsored by EBSA for both retirement and health benefit plans, visit [EBSA's homepage](#).



## Retirement News for Employers

*Retirement News for Employers (RNE)* is a free, quarterly newsletter aimed at keeping employers informed about retirement plan sponsorship. *RNE* is prepared by the IRS's Employee Plans (Tax Exempt and Government Entities) office.

For your convenience, *RNE* includes Internet links – identified by the blue underlined text – to referenced materials.

### How to Subscribe

*RNE* is distributed exclusively through IRS e-mail. Sign up for your free subscription by going to the [Retirement Plans Community](#) web page and selecting “Newsletters” in the left pane. Prior editions of the *RNE* are also archived there.

### Send Comments/Suggestions to:

EP Customer Education & Outreach  
SE:T:EP:CEO  
1111 Constitution Ave., N.W., PE-4C3  
Washington, DC 20224

FAX: (202) 283-9525

E-Mail: [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov)

### Have a Question?

#### For taxpayer assistance with retirement plans technical and procedural questions:

Please call (877) 829-5500 or visit the “Contact EP/Services” section at [www.irs.gov/ep](http://www.irs.gov/ep).

#### For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts, and §125 cafeteria plans:

Please call (800) 829-1040. •

## Mark Your Calendar

Meeting deadlines is a sometimes cumbersome part of operating your retirement plan. To help, we've listed some upcoming important deadlines. Please note that the dates are for calendar-year plans.

### FEBRUARY 28

Paper Forms 1099-R for 2007 distributions due to IRS.

### MARCH 15

- Application of Waiver for Minimum Funding Standard for defined benefit plans due.
- ADP/ACP distributions of excess amounts, with earnings, due to participants to avoid 10% excise tax.

### MARCH 17

**Note:** The following usually are due on March 15, which falls on Saturday in 2008

- Forms 1042S, *Foreign Person's U.S. Source Income Subject to Withholding*, and 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*, due to IRS to report retirement plan distributions and income tax withheld from distributions made to nonresident aliens.
- 2007 corporate employer contributions due in order to take tax-deduction (with no corporate filing extension).

### MARCH 31

Electronic filing of Forms 1099-R for 2007 distributions due to IRS.

### APRIL 1

Initial age 70½ minimum required distributions due to participants who turned age 70½ in 2007 for IRA and IRA-based plans. For all other retirement plans, first required distribution for 5% owners and for non-5% owners who retired in 2007.

### APRIL 15

- Deadline for returning 2007 participant deferrals in excess of \$15,500 (\$20,500, if 50 or older).
- Deadline to establish an IRA for possible deduction in 2007.
- First quarterly defined benefit contribution installment due for the 2008 plan year.
- 2007 self-employed individual and partnership contributions due in order to take tax deduction (with no filing extension).

**For a comprehensive list of upcoming EP Educational Events, visit the [Retirement Plans Community](#) web page, select “Plan Sponsor/Employer,” then “Questions: Where to Get Answers,” and click on “Upcoming EP Educational Events.” •**



Department of the Treasury  
Internal Revenue Service

Publication 4278 (02-2008)  
Catalog Number 37968B

[www.irs.gov](http://www.irs.gov)

# Timing is Everything



## *Some helpful retirement tips for employees from the IRS...*

How much can I contribute to my IRA for 2007?

- the lesser of:
  - your taxable compensation
  - or \$4,000 (\$5,000 if 50 or older)



When must I make the contribution?

By April 15, 2008

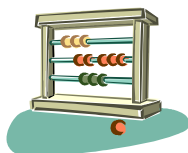


Is my contribution deductible?

If it is a Roth IRA – no

If it is a traditional IRA – maybe

See page 28 of the 2007 Form 1040 Instructions,  
page 27 of the 2007 Form 1040A Instructions, or  
page 16 of the 2007 Form 1040NR Instructions.



For more retirement tips, talk to your employer or visit [www.irs.gov/ep](http://www.irs.gov/ep), select “Plan Participant/Employee” and click on “Timing is Everything.”



Department of the Treasury  
Internal Revenue Service

Publication 4278-B (02-2008)  
Catalog Number 47978D

[www.irs.gov](http://www.irs.gov)